

## **REMARKS/ARGUMENTS**

Claim 1 has been amended and new claims 16 – 18 have been added. Dependent claims 2-5 are as previously presented. Claims 6-15 stand withdrawn in view of an earlier Restriction Requirement.

Support for the amendment to claim 1 and for new claims 16 – 18 may be found throughout the specification, e.g., at paragraphs 36, 39-40, and 56, as well as in the drawings, e.g., FIGS. 8-9 and 12.

### ***Specification***

The abstract of the disclosure has been objected to because it exceeds a single paragraph. This has now been corrected via the above-recited amendment to the specification, wherein the second paragraph of the abstract has been deleted so that the abstract now consists of only a single paragraph.

### ***Claim Rejections – 35 USC §103***

Claims 1-3 and 5 stand rejected under 35 USC 103(a) as being unpatentable over Clarke (GB 2,382,569) in view of Hekal (US 5,634,567).

Clarke discloses a container assembly having a support 10 and a frame 12 fitted to a flange 16 at the mouth of the support, wherein the frame may include an uncovered central opening that allows product to be loaded into the mouth of the support. As noted in the Office Action, Clarke does not disclose that the rim of the frame 12 extends only over a fraction of the flange, leaving part of the flange uncovered by the frame.

Hekal discloses an end closure 16 for a container 10. The end closure 16 includes a rim 20 with an inwardly projecting ledge 22, which defines an inner opening 24 (col. 2, lines 30-39; FIG. 1). The opening 24 is closed by a panel 26, which is peelably bonded to ledge 22 to allow removal of the panel 26 from the ledge 22 in a peeling action (col. 2, lines 39-46). After the product to be packaged is placed within container 10, a

suitable heating operation is effected, by which the end closure 16 bonds to the end surface 12 and projection 14 of the container 10 (col. 2, lines 55-62). The drawings appear to show part of the end surface 12 uncovered by ledge 22 of rim 20.

The Office takes the position that it would have been obvious to combine the teachings of Clark and Hekal in such a way as to arrive at the claimed invention.

In response, Applicants point out that the container assembly of the present invention provides features and benefits that would not be realized by the combination of Clark and Hekal. Specifically, as described in the specification at paragraphs 36 and 39-40, and illustrated in FIGS. 8-9, both the rim of the frame and the part of the flange not covered by the rim are adapted, i.e., structured and arranged, to form a seal with a thermoplastic film. As shown in FIG. 8, for example, thermoplastic film 63 forms a first seal 61 with rim 32 of frame 30, and also a second seal 62 with part 22 of flange 21 that is not covered by rim 32. This arrangement allows the inventive container assembly to be configured as a reclosable package, e.g., by further adapting the rim of the frame to form a permanent seal with the film and further adapting the uncovered part of the flange to form a peelable seal with the film. Thus, as described at paragraph 56 and illustrated in FIG. 12, a package 90 formed from the container assembly can be opened by disengaging frame 30 from flange 21, peeling seal 62 open, and then lifting frame 30 away from support 20. Once the peelable seal 62 has been opened, the thermoplastic film 63 remains secured to frame 30 by means of seal 61, thus forming a unitary, self-standing lid 45. Lid 45 can be used to reclose package 90, providing optimal storage conditions for product 80 even after the package has been initially opened.

As a further advantageous feature, the part 22 of flange 21 not covered by the rim 32 may be further adapted to form a hermetic peelable seal with the thermoplastic film (see, e.g., paragraph 39). In this

manner, even though the container assembly may be configured as a reclosable package, the packaged contents may still be preserved in an un-spoiled state prior to the initial opening the package as described above.

In order to clarify the foregoing aspects of the present invention, claim 1 has been amended to specify that “both the rim of the frame and the part of the flange not covered by the rim are adapted to form a seal with a thermoplastic film.”

As noted above and in the Office Action, Clarke does not disclose that the rim of its frame 12 extends only over a fraction of the flange 16, and thus no part of the flange is left uncovered by the frame. No part of the flange 16 is therefore adapted to form a seal with the film 14. While Hekal’s drawings appear to show part of the end surface 12 of container 10 uncovered by ledge 22 of rim 20, Hekal does not teach or suggest that such uncovered part of the end surface 12 is adapted to form a seal with the panel/film 26. Any such adaptation would, indeed, stand in contrast to Hekal’s principle of operation, wherein the rim 20 is adapted to form a heat-bond with the end surface 12 and flange 14 of container 10, and a peelable bond with film 26 (col. 2, lines 39-62). Thus, any adaptation of the uncovered part of end surface 12 to form a seal with the film 26 would serve no useful purpose in accordance with the teaching as set forth in Hekal – at best, such a seal would be superfluous; at worst, such a seal would interfere with the ability to “readily remove[] [the film 26] from the ledge 22 [of rim 20] in a peeling action.” (Hekal at col. 2, lines 43-46.)

Furthermore, as shown in FIGS. 1-3 of Hekal, the uncovered part of end surface 12 is clearly not adapted to form a seal with film 26. In the first place, such surface is downwardly curved away from film 26, and would therefore provide a poor sealing surface for the film. Secondly, the uncovered part of end surface 12 is positioned directly beneath the film 26. Thus, in order for the film 26 to be brought into

contact with and sealed to such surface, it would have to be awkwardly bent downwards at nearly a 90° angle. Thus, neither the structure nor the arrangement of the uncovered part of end surface 12 renders it adaptable to form a seal with film 26. Accordingly, Applicants respectfully submit that FIGS. 1-3 of Hekal would not have suggested to one of ordinary skill in the art the possibility that the uncovered part of end surface 12 is adapted, or could be adapted, to form a seal with film 26.<sup>1</sup>

In contrast, the claimed container assembly as described and illustrated in Applicants' specification and drawings features an uncovered flange part that is clearly adapted to form a seal with a thermoplastic film. As shown, for example, in FIGS. 8-9, the part 22 of flange 21 that is not covered by rim 32 has a flat configuration and thus provides an excellent sealing surface for film 63. In addition, such uncovered part 22 of flange 21 is essentially coplanar with rim 32 of frame 30, such that film 63 assumes a flat orientation across first seal 61 and second seal 62, which greatly facilitates both the process of forming the seals 61, 62, and the stability of the seals as the resultant package is shipped, stored, and then displayed for customer purchase.

Accordingly, Applicants respectfully submit that the container assembly as now presented in claim 1 would not result from the combination of Clarke with Hekal. Furthermore, the claimed container assembly provides features and benefits that would similarly not result from any combination of Clarke and Hekal. For example, the container assembly of claim 1 may be configured as a reclosable package, by adapting the rim of the frame to form a permanent seal with the film and adapting the uncovered part of the flange to form a peelable seal with the film. These aspects of the invention are now recited in new claims 16

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<sup>1</sup> Hekal does not call out or in any way describe the uncovered part of the end surface 12 of container 10. Thus, the entirety of the disclosure of this aspect of Hekal is that which is shown in the drawings.

and 18. As another example, the part of the flange not covered by the rim 32 may be further adapted to form a hermetic peelable seal with the thermoplastic film, in order to preserve the packaged contents in an un-spoiled state prior to the initial opening the package. This aspect of the invention is now recited in new claim 17.

For all of the reasons set forth above, the invention as now presented in amended claim 1, as well as in new dependent claims 16-18, is submitted to be patentably distinct from the combination of Clarke and Hekal. A Notice of Allowance for pending claims 1-5 and 16-18 is earnestly solicited.

In the event that a telephonic discussion would be deemed by the Examiner to be helpful in any respect, the Examiner is invited to call the undersigned at the number listed below.

Respectfully submitted,



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